

## STATE OF NORTH CAROLINA

File No.

05 CrS

10357

FILED

MECKLENBURG County

2005 JUN 28 AM 11:12

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

ROBERT LOWINGER, Individually, et al MECKLENBURG COUNTY, C.S.C.

Address

City, State, Zip

BY

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

VERSUS

Name Of Defendant(s)

EUGENE B. JOHNSON, DANIEL G. BERGSTEIN, KELSO  
INVESTMENT ASSOCIATES V, L.P., KELSO EQUITY  
PARTNERS V, L.P., et al

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

## To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Daniel G. Bergstein  
Paul, Hastings, Janofsky & Walker, LLP  
75 East 55th Street  
New York, NY 10022

Name And Address Of Defendant 2

## A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

John T. O'Neal  
Donaldson & Black, P.A.  
208 West Wendover Avenue  
Greensboro, NC 27401  
Telephone: 336-273-3812

Date Issued

7/10/05

Time

1051

☐ AM ☒ PM

Signature

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

AOC-CV-100, Rev. 10/01

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(Over)

**SENDER: COMPLETE THIS SECTION**

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Daniel G. Bergstein  
Paul, Hastings, Janofsky  
& Walker, LLP  
5 East 55<sup>th</sup> Street  
New York, NY 10022

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

☒ X

*Janofsky*

☒ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☒ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

Article Number

(Transfer from service)

7004 1160 0004 8278 5931

Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540



NORTH CAROLINA

MECKLENBURG COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

05 CvS 10328

2005 JUN 23 AM 11:14

MECKLENBURG COUNTY, C.S.C.

ROBERT LOWINGER, Individually )

and On Behalf of All Others )

Similarly Situated, )

Plaintiffs, )

v. )

AFFIDAVIT OF SERVICE

EUGENE B. JOHNSON, DANIEL G. )

BERGSTEIN, KELSO INVESTMENT )

ASSOCIATES V, L.P., KELSO EQUITY )

PARTNERS V, L.P., FRANK K. BYNUM, JR., )

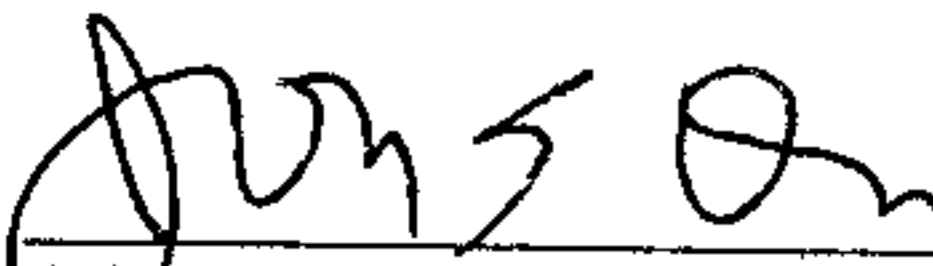
GEORGE E. MATELICH, KELSO & COMPANY )

and FAIRPOINT COMMUNICATIONS, INC., )

Defendants. )

John T. O'Neal, being first duly sworn, deposes and says that:

1. I am the attorney for the Plaintiffs in this pending civil action.
2. A copy of the Summons and Complaint was deposited in the U. S. Post Office, postage prepaid, on June 10, 2005, by certified mail, return receipt requested.
3. The copy of the Summons and Complaint was mailed to:  
  
Frank K. Bynum, Jr.  
c/o Kelso & Company  
320 Park Avenue, 24<sup>th</sup> Floor  
New York, NY 10022
4. Process was in fact received on June 14, 2005, as evidenced by the attached return receipt.



John T. O'Neal

N. C. State Bar No. 23446

Donaldson & Black, P.A.

208 West Wendover Avenue

Greensboro, North Carolina 27401

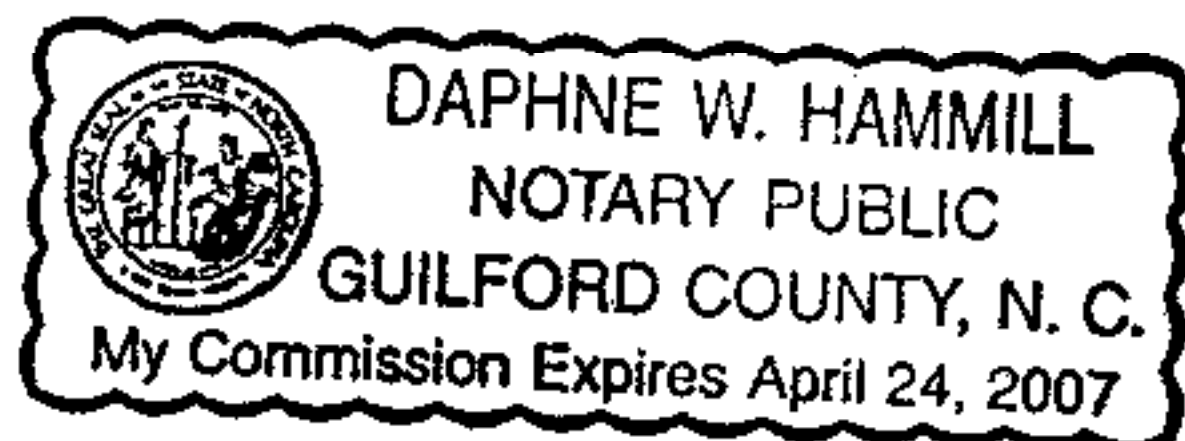
336-273-3812

Sworn to and subscribed before me,  
this the 27<sup>th</sup> day of June 2005.

Daphne W. Hammill

Notary Public

My Commission Expires: April 24, 2007





## STATE OF NORTH CAROLINA

File No.

05 CVS

10358

MECKLENBURG County

FILED

JUN 23 AM 11:14

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

ROBERT LOWINGER, Individually, et al

Address

City, State, Zip

VERSUS

Name Of Defendant(s)

EUGENE B. JOHNSON, DANIEL G. BERGSTEIN, KELSO  
INVESTMENT ASSOCIATES V, L.P., KELSO EQUITY  
PARTNERS V, L.P., et al

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

## To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Frank K. Bynum, Jr.  
c/o Kelso & Company  
320 Park Avenue, 24th Floor  
New York, NY 10022

Name And Address Of Defendant 2

## A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

John T. O'Neal  
Donaldson & Black, P.A.  
208 West Wendover Avenue  
Greensboro, NC 27401  
Telephone: 336-273-3812

Date Issued

6/10/05

Time

10:51

☐ AM ☒ PM

Signature

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

AOC-CV-100, Rev. 10/01

• 2001 Administrative Office of the Courts

(Over)

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Frank K. Dynum, Jr.  
c/o Kelso & Company  
320 Park Avenue, 24<sup>th</sup> Floor  
New York, NY 10022

2. Article  
(Name)

PS For...

**COMPLETE THIS SECTION ON DELIVERY**

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) C. Date of Delivery  
D. Is delivery address different from item 1? ☐ Yes ☐ No  
If YES, enter delivery address below:

3. Service Type
- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Certified Mail | <input type="checkbox"/> Express Mail                              |
| <input type="checkbox"/> Registered                | <input checked="" type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Insured Mail              | <input type="checkbox"/> C.O.D.                                    |
4. Restricted Delivery? (Extra Fee) ☐ Yes

12595-02-M-1540



JUN 10 2005

NORTH CAROLINA  
MECKLENBURG COUNTY  
IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
05 CVS 10328

ROBERT LOWINGER, Individually  
and On Behalf of All Others  
Similarly Situated,  
Plaintiffs,


v.

AFFIDAVIT OF SERVICE

EUGENE B. JOHNSON, DANIEL G.  
BERGSTEIN, KELSO INVESTMENT  
ASSOCIATES V, L.P., KELSO EQUITY  
PARTNERS V, L.P., FRANK K. BYNUM, JR.,  
GEORGE E. MATELICH, KELSO & COMPANY  
and FAIRPOINT COMMUNICATIONS, INC.,  
Defendants.

John T. O'Neal, being first duly sworn, deposes and says that:

1. I am the attorney for the Plaintiffs in this pending civil action.
2. A copy of the Summons and Complaint was deposited in the U. S. Post Office, postage prepaid, on June 10, 2005, by certified mail, return receipt requested.
3. The copy of the Summons and Complaint was mailed to:  
  
George E. Matelich  
c/o Kelso & Company  
320 Park Avenue, 24<sup>th</sup> Floor  
New York, NY 10022
4. Process was in fact received on June 14, 2005, as evidenced by the attached return receipt.

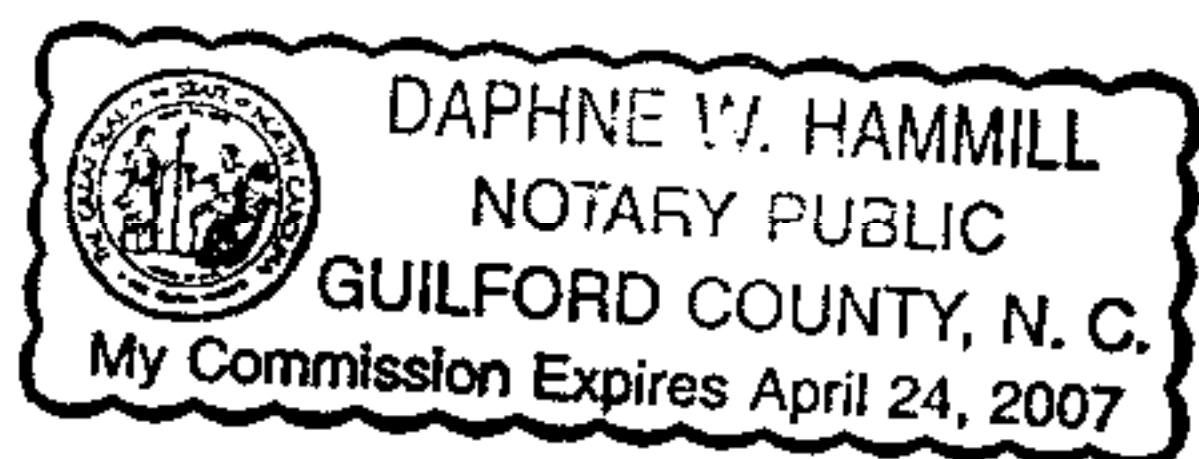
  
John T. O'Neal  
N. C. State Bar No. 23446  
Donaldson & Black, P.A.  
208 West Wendover Avenue  
Greensboro, North Carolina 27401  
336-273-3812

Sworn to and subscribed before me,  
this the 27<sup>th</sup> day of June 2005.

Daphne S. Hammill

Notary Public

My Commission Expires: April 24, 2007





# STATE OF NORTH CAROLINA

MECKLENBURG County

FILED

2005 JUN 29 AM 11:14 ☐ District ☒ Superior Court Division

In The General Court Of Justice

Name Of Plaintiff

MECKLENBURG COUNTY, C.S.C.

ROBERT LOWINGER, Individually, et al

Address

City, State, Zip

VERSUS

Name Of Defendant(s)

EUGENE B. JOHNSON, DANIEL G. BERGSTEIN, KELSO INVESTMENT ASSOCIATES V, L.P., KELSO EQUITY PARTNERS V, L.P., et al

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

### To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

George E. Matelich  
c/o Kelso & Company  
320 Park Avenue, 24th Floor  
New York, NY 10022

Name And Address Of Defendant 2

### A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

John T. O'Neal  
Donaldson & Black, P.A.  
208 West Wendover Avenue  
Greensboro, NC 27401  
Telephone: 336-273-3812

Date Issued

Time

☐ AM ☒ PM

Signature

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

### ☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

AOC-CV-100, Rev. 10/01

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(Over)

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

George E. Matelich  
c/o Kelso & Company  
330 Park Avenue, 24<sup>th</sup> floor  
New York, NY 10022

2. Article

(Title)

PS For

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

B. Received by (Printed Name)

D. Received by (Printed Name)

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

☒ Certified Mail ☐ Express Mail

☐ Registered ☒ Return Receipt for

☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)



JUN 10 2005

FILED

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

MECKLENBURG COUNTY

2005 JUN 29 AM 11:14

SUPERIOR COURT DIVISION

05 CvS 10328

ROBERT LOWINGER, Individually  
and On Behalf of All Others  
Similarly Situated,

Plaintiffs,

v.

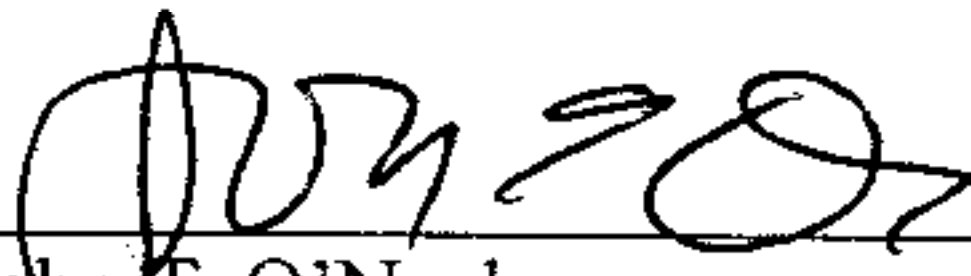
AFFIDAVIT OF SERVICE

EUGENE B. JOHNSON, DANIEL G.  
BERGSTEIN, KELSO INVESTMENT  
ASSOCIATES V, L.P., KELSO EQUITY  
PARTNERS V, L.P., FRANK K. BYNUM, JR.,  
GEORGE E. MATELICH, KELSO & COMPANY  
and FAIRPOINT COMMUNICATIONS, INC.,

Defendants.

John T. O'Neal, being first duly sworn, deposes and says that:

1. I am the attorney for the Plaintiffs in this pending civil action.
2. A copy of the Summons and Complaint was deposited in the U. S. Post Office, postage prepaid, on June 10, 2005, by certified mail, return receipt requested.
3. The copy of the Summons and Complaint was mailed to:  
  
Kelso & Company  
c/o Joseph S. Schuchert, Chairman,  
Board of Directors  
320 Park Avenue, 24<sup>th</sup> Floor  
New York, NY 10022
4. Process was in fact received on June 14, 2005, as evidenced by the attached return receipt.



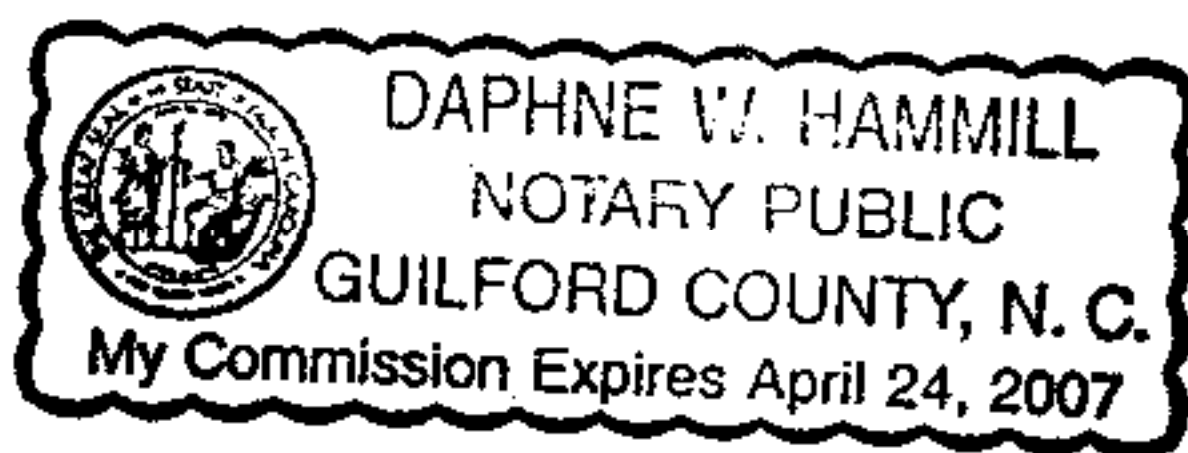
John T. O'Neal  
Donaldson & Black, P.A.  
208 West Wendover Avenue  
Greensboro, North Carolina 27401  
336-273-3812

Sworn to and subscribed before me,  
this the 27<sup>th</sup> day of June 2005.

Daphne V. Hammill

Notary Public

My Commission Expires: April 24, 2007





# STATE OF NORTH CAROLINA

File No. 05 CVS 10328

MECKLENBURG County 2005 JUN 29 AM 11:14

In The General Court Of Justice  
☐ District ☒ Superior Court Division

Name Of Plaintiff  
 ROBERT LOWINGER, Individually, et al  
 Address  
 City, State, Zip

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

### VERSUS

Name Of Defendant(s)  
 EUGENE B. JOHNSON, DANIEL G. BERGSTEIN, KELSO  
 INVESTMENT ASSOCIATES V, L.P., KELSO EQUITY  
 PARTNERS V, L.P., et al

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

### To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1  
 Kelso & Company  
 c/o Joseph S. Schuchert, Jr., Chairman, Board of Directors  
 320 Park Avenue, 24th Floor  
 New York, NY 10022

Name And Address Of Defendant 2

### A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

John T. O'Neal  
 Donaldson & Black, P.A.  
 208 West Wendover Avenue  
 Greensboro, NC 27401  
 Telephone: 336-273-3812

Date Issued

Time

☐ AM ☒ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

### ☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

AOC-CV-100, Rev. 10/01

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(Over)

14676-1200

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:


Kelso & Company, c/o Joseph  
S. Schuchert, Chairman,  
Board of Directors  
320 Park Avenue, 24th Floor  
New York, NY 10022

2. Article

(Type)

PS Fo

**COMPLETE THIS SECTION ON DELIVERY**

- A. Signature  ☐ Agent ☐ Addressee
- B. Received by (Printed Name) Joseph S. Schuchert C. Date of Delivery 6/14/05
- D. Is delivery address different from item 1? ☐ Yes ☐ No  
If YES, enter delivery address below:

3. Service Type

- ☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

102595-02-1



JUN 20 2005

NORTH CAROLINA

FILED

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

MECKLENBURG COUNTY

JUN 29 AM 11:15

05 Cvs 10328

MECKLENBURG COUNTY, C.S.C.

ROBERT LOWINGER, Individually  
and On Behalf of All Others  
Similarly Situated,

Plaintiffs,

v.

AFFIDAVIT OF SERVICE

EUGENE B. JOHNSON, DANIEL G.  
BERGSTEIN, KELSO INVESTMENT  
ASSOCIATES V, L.P., KELSO EQUITY  
PARTNERS V, L.P., FRANK K. BYNUM, JR.,  
GEORGE E. MATELICH, KELSO & COMPANY  
and FAIRPOINT COMMUNICATIONS, INC.,

Defendants.

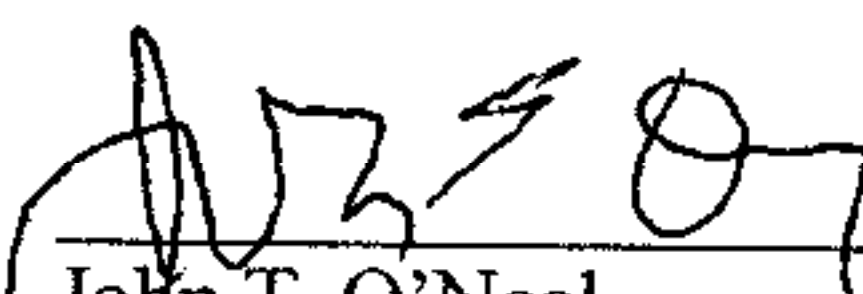
John T. O'Neal, being first duly sworn, deposes and says that:

1. I am the attorney for the Plaintiffs in this pending civil action.
2. A copy of the Summons and Complaint was deposited in the U. S. Post Office, postage prepaid, on June 10, 2005, by certified mail, return receipt requested.

3. The copy of the Summons and Complaint was mailed to:

Kelso Investment Associates V, L.P.  
c/o James Connors, II, General Partner  
of Kelso Partners V, L.P.  
General Partner of Kelso Investment  
Investment Associates V, L.P.  
320 Park Avenue, 24<sup>th</sup> Floor  
New York, NY 10022

4. Process was in fact received on June 14, 2005, as evidenced by the attached return receipt.

  
John T. O'Neal

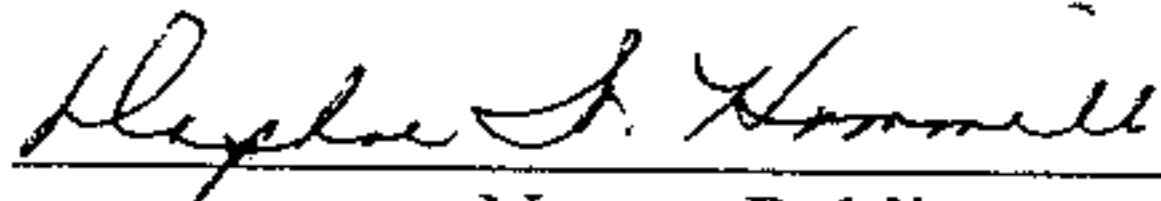
Donaldson & Black, P.A.

208 West Wendover Avenue

Greensboro, North Carolina 27401

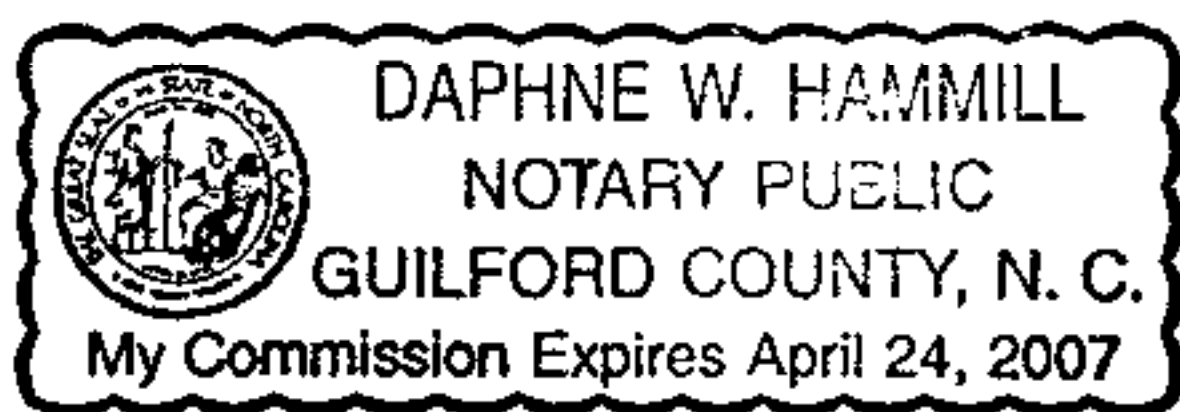
336-273-3812

Sworn to and subscribed before me,  
this the 27<sup>th</sup> day of June 2005.



Notary Public

My Commission Expires: April 24, 2007





# STATE OF NORTH CAROLINA

File No.

05 CrS 10378

MECKLENBURG County

FILED

2005 JUN 29 AM 11:15

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

ROBERT LOWINGER, Individually, et al

MECKLENBURG COUNTY, C.S.C.

Address

City, State, Zip

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

VERSUS

Name Of Defendant(s)

EUGENE B. JOHNSON, DANIEL G. BERGSTEIN, KELSO INVESTMENT ASSOCIATES V, L.P., KELSO EQUITY PARTNERS V, L.P., et al

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

### To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Kelso Investment Associates V, L.P.  
c/o James J. Connors, II, General Partner of Kelso Partners V, L.P., General Partner of Kelso Investment Associates V, L.P.  
320 Park Avenue, 24th Floor  
New York, NY 10022

Name And Address Of Defendant 2

### A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

John T. O'Neal  
Donaldson & Black, P.A.  
208 West Wendover Avenue  
Greensboro, NC 27401  
Telephone: 336-273-3812

Date Issued

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

AOC-CV-100, Rev. 10/01

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(Over)

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

*Kelso Investment Assoc. V, L.P.  
c/o James Connors, II, General  
Partner of Kelso Partners V, L.P.  
General Partner of Kelso  
Investment Assoc. V, L.P.  
320 Park Avenue, 24th Floor  
New York, NY 10022*

**2. Article**

*(Title)*

*PS For*

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature ☒ Agent ☐ Addressee

B. Received by (Printed Name) *James Connors II* C. Date of Delivery *6/11/02*

D. Is delivery address different from item 1? ☐ Yes ☒ No  
If YES, enter delivery address below:

**3. Service Type**

☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

102595-02-M-1540



NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

MECKLENBURG COUNTY

Case No. 03 CV 10328

ROBERT LOWINGER, Individually  
and On Behalf of All Others  
Similarly Situated,

Plaintiffs,

v.

EUGENE B. JOHNSON, DANIEL G.  
BERGSTEIN, KELSO INVESTMENT  
ASSOCIATES V, L.P., KELSO EQUITY  
PARTNERS V, L.P., FRANK K. BYNUM, JR.,  
GEORGE E. MATELICH, KELSO & COMPANY  
and FAIRPOINT COMMUNICATIONS, INC.,

Defendants.

AFFIDAVIT OF SERVICE

John T. O'Neal, being first duly sworn, deposes and says that:

1. I am the attorney for the Plaintiffs in this pending civil action.
2. A copy of the Summons and Complaint was deposited in the U. S. Post Office, postage prepaid, on June 10, 2005, by certified mail, return receipt requested.
3. The copy of the Summons and Complaint was mailed to:  
  
Kelso Equity Partners V, LP  
c/o James J. Connors II, General Partner  
320 Park Avenue, 24<sup>th</sup> Floor  
New York, NY 10022
4. Process was in fact received on June 14, 2005, as evidenced by the attached return receipt.

  
John T. O'Neal

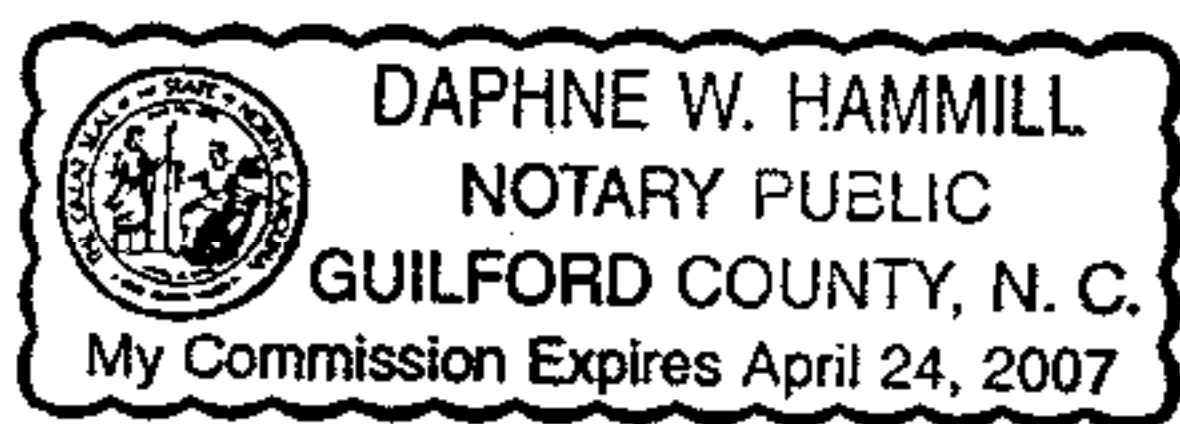
N. C. State Bar No. 23446  
Donaldson & Black, P.A.  
208 West Wendover Avenue  
Greensboro, North Carolina 27401  
336-273-3812

Sworn to and subscribed before me,  
this the 27<sup>th</sup> day of June 2005.

Daphne W. Hammill

Notary Public

My Commission Expires: April 24, 2007





# STATE OF NORTH CAROLINA

MECKLENBURG County

FILED

2005 JUN 29 AM 11:15

File No.

05 CVS

10338

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

ROBERT LOWINGER, Individually, et al

MECKLENBURG COUNTY, N.C.

Address

City, State, Zip

BY

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

VERSUS

Name Of Defendant(s)

EUGENE B. JOHNSON, DANIEL G. BERGSTEIN, KELSO INVESTMENT ASSOCIATES V, L.P., KELSO EQUITY PARTNERS V, L.P., et al

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Kelso Equity Partners V, L.P.  
c/o James J. Connors, II, General Partner  
320 Park Avenue, 24th Floor  
New York, NY 10022

Name And Address Of Defendant 2

### A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

John T. O'Neal  
Donaldson & Black, P.A.  
208 West Wendover Avenue  
Greensboro, NC 27401  
Telephone: 336-273-3812

Date Issued

Time

☐ AM ☐ PM

Signature

☐ Deputy OSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

AOC-CV-100, Rev. 10/01

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(Over)

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
Kelso Equity Partners V, LP  
c/o James J. Connors, III  
General Partner  
320 Park Avenue, 24<sup>th</sup> Floor  
New York, NY 10022

2. Article  
(Title)  
PS Form

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X 

B. Received by (Printed Name)



C. Date

6/11/05

D. Is delivery address different from item 1? ☐

If YES, enter delivery address below: ☐

3. Service Type

☒ Certified Mail ☐ Express Mail

☐ Registered ☒ Return Receipt for Me

☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐

0259



STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

FILED  
2005 JUL 11 AM 11:00  
IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
MECKLENBURG COUNTY, C.S.C. 4CV 03140

ROBERT LOWINGER, Individually and )  
On Behalf of All Others Similarly Situated, )

Plaintiff, )

v. )

EUGENE B. JOHNSON, DANIEL B. )  
BERGSTEIN, KELSO INVESTMENT )  
ASSOCIATES V, L.P., KELSO EQUITY )  
PARTNERS V, L.P., FRANK K. BYNUM, )  
JR., GEORGE E. MATELICH, KELSO & )  
COMPANY and FAIRPOINT )  
COMMUNICATIONS, INC., )

Defendants. )

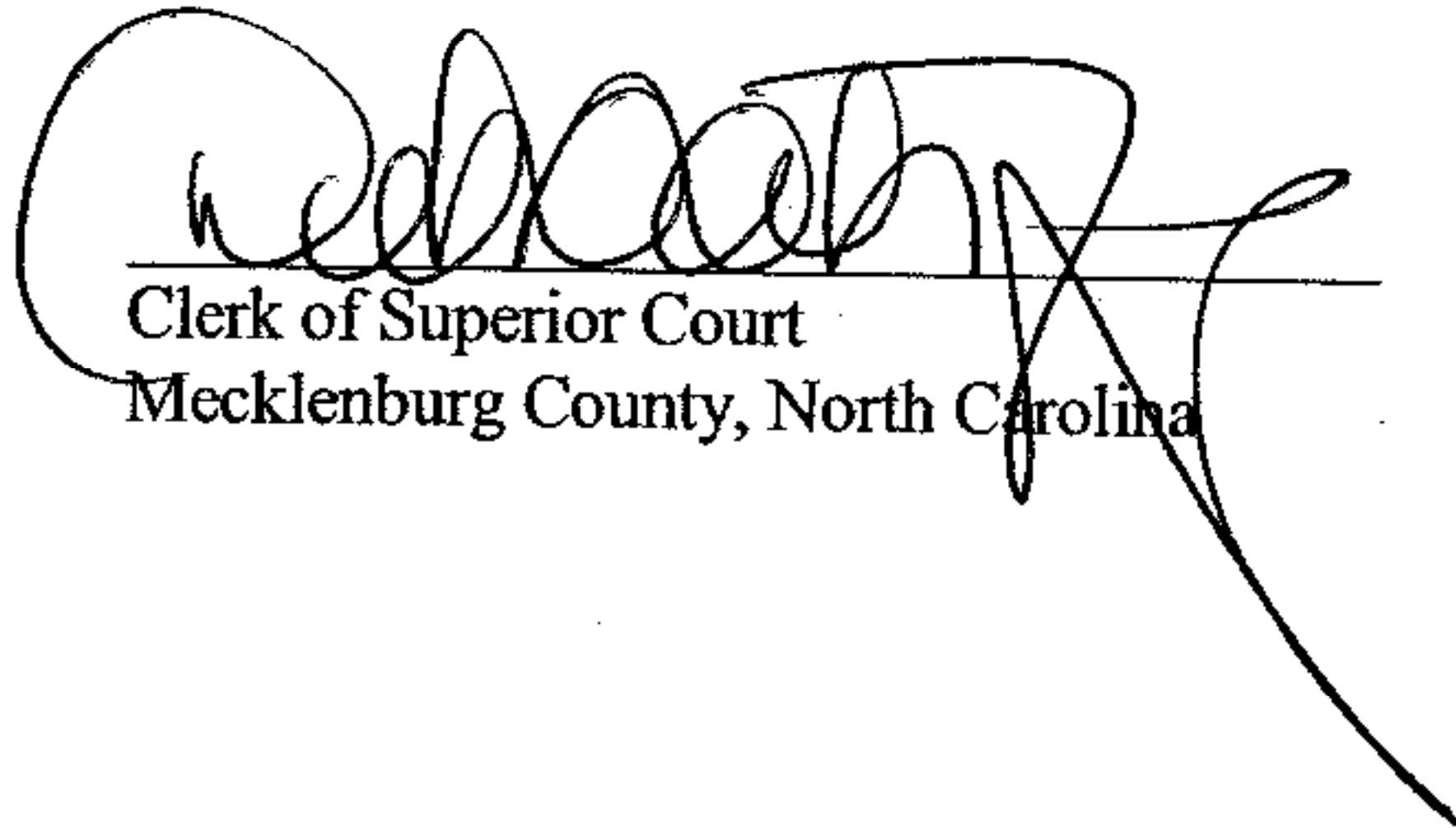
**ORDER GRANTING**  
**EXTENSION OF TIME**

Pursuant to Rule 6(b) of the North Carolina Rules of Civil Procedure and upon motion of Defendants Eugene B. Johnson ("Johnson"), Daniel B. Bergstein ("Bergstein"), Kelso Investment Associates V, L.P. ("Kelso Investments"), Kelso Equity Partners V, L.P. ("Kelso Equity"), Frank K. Bynum, Jr. ("Bynum"), George E. Matelich, ("Matelich"), Kelso & Company and FairPoint Communications, Inc. ("FairPoint") for a thirty (30) day extension of time within which to respond to Plaintiff's complaint, and with the consent of Plaintiff's counsel and for good cause shown, it is

NOW THEREFORE ORDERED that Defendants FairPoint and Johnson shall have an extension of time of thirty (30) days, through and including August 12, 2005 within which to serve their answer or other responses to the Complaint, and defendants Kelso Equity, Kelso & Company, Kelso Investment, Matelich, Bynum, and Bergstein shall have an extension of time of

thirty (30) days, through and including August 13, 2005 within which to serve their Answer or other responses to the Complaint.

This the 11 day of July, 2005.



Clerk of Superior Court  
Mecklenburg County, North Carolina



**CERTIFICATE OF SERVICE**

It is hereby certified that the foregoing **Order Granting Extension of Time** has been served this day by depositing copies thereof in a depository under the exclusive care and custody of the United States Postal Service in postage prepaid envelopes and properly addressed as follows:

John T. O'Neal  
Donaldson & Black, P.A.  
208 West Wendover Avenue  
Greensboro, NC 27401  
(336) 273-3812

Jeffrey S. Abraham  
Abraham, Fruchter & Twersky LLP  
One Penn Plaza  
Suite 2805  
New York, NY 10119  
(212) 279-5050

This the 11<sup>th</sup> day of July, 2005.

A handwritten signature in black ink, appearing to read "Jeffrey S. Abraham", is written over a horizontal line.

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

FILED

2005 JUL 11 AM 11:10

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

MECKLENBURG COUNTY, C.S.C.

4CV 03140

ROBERT LOWINGER, Individually and  
On Behalf of All Others Similarly Situated,

Plaintiff,

v.

EUGENE B. JOHNSON, DANIEL B.  
BERGSTEIN, KELSO INVESTMENT  
ASSOCIATES V, L.P., KELSO EQUITY  
PARTNERS V, L.P., FRANK K. BYNUM,  
JR., GEORGE E. MATELICH, KELSO &  
COMPANY and FAIRPOINT  
COMMUNICATIONS, INC.,

Defendant.

**CONSENT MOTION**  
**FOR**  
**EXTENSION OF TIME**

Pursuant to Rule 6(b) of the North Carolina Rules of Civil Procedure, Defendants, Eugene B. Johnson ("Johnson"), Daniel B. Bergstein ("Bergstein"), Kelso Investment Associates V, L.P. ("Kelso Investments"), Kelso Equity Partners V, L.P. ("Kelso Equity"), Frank K. Bynum, Jr. ("Bynum"), George E. Matelich, ("Matelich"), Kelso & Company and FairPoint Communications, Inc. ("FairPoint") move this Court for thirty (30) day extension of time within which to respond to Plaintiff's complaint. In support of this motion, Defendant shows as follows:

1. The Complaint was served on Defendants FairPoint and Johnson via certified mail on July 13, 2005 and the time to respond has not yet expired;



2. The complaint was served on Defendants Kelso Equity, Kelso & Company, Kelso Investment, Matelich, Bynum, and Bergstein via certified mail on June 14, 2005 and the time to respond has not yet expired;

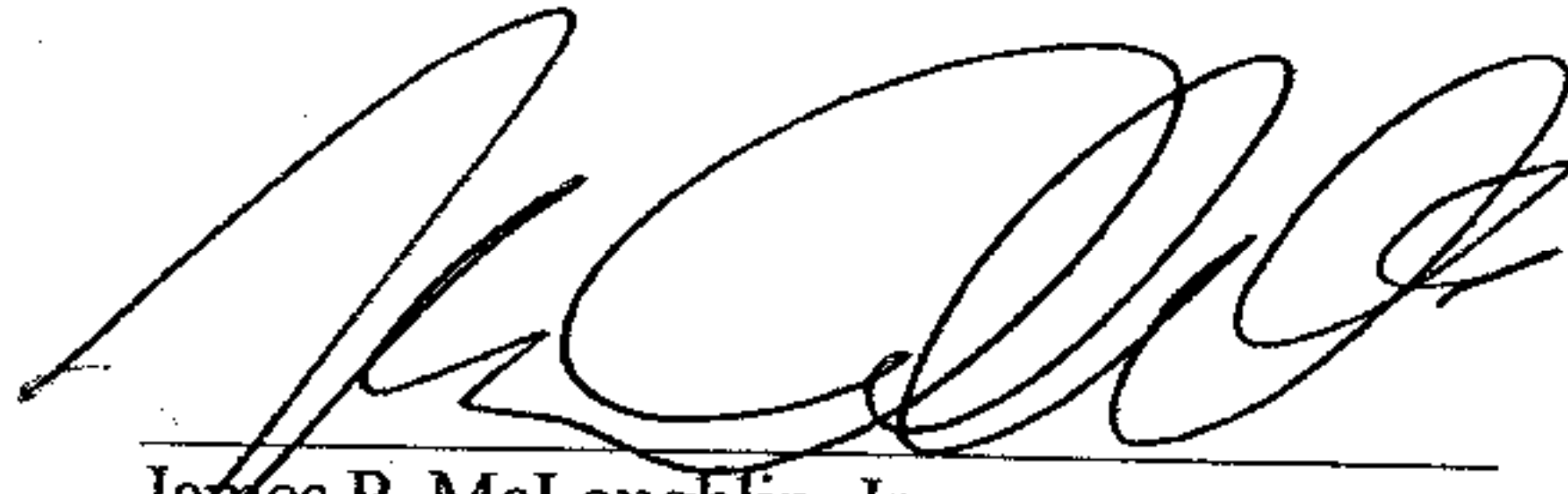
3. Defendants have not had sufficient time to compile information and otherwise respond to the complaint;

4. Defendants have consulted with counsel for Plaintiff and Plaintiff's counsel has consented to the extension of time; and

5. This extension of time will cause no unreasonable delay in the resolution of this action.

WHEREFORE, Defendants FairPoint and Johnson pray that this Court enter an order extending the time within which they must respond to Plaintiff's complaint through and including August 12, 2005 and Defendants Kelso Equity, Kelso & Company, Kelso Investment, Matelich, Bynum and Bergstein pray that the Court enter an order extending the time within which they must respond to Plaintiff's complaint thereof and entered August 13, 2005.

This the 11<sup>th</sup> day of July, 2005.



James P. McLoughlin, Jr.  
Valecia M. McDowell  
McNeill Y. Wester

**ATTORNEYS FOR DEFENDANTS**

Eugene B. Johnson  
Daniel B. Bergstein  
Kelso Investment Associates V, L.P.  
Kelso Equity Partners V, L.P.  
Frank K. Bynum, Jr.  
George E. Matelich  
Kelso & Company  
FairPoint Communications, Inc.




**CERTIFICATE OF SERVICE**

It is hereby certified that the foregoing **MOTION FOR EXTENSION OF TIME** has been served this day by depositing copies thereof in a depository under the exclusive care and custody of the United States Postal Service in postage prepaid envelopes and properly addressed as follows:

John T. O'Neal  
Donaldson & Black, P.A.  
208 West Wendover Avenue  
Greensboro, NC 27401  
(336) 273-3812

Jeffrey S. Abraham  
Abraham, Fruchter & Twersky LLP  
One Penn Plaza  
Suite 2805  
New York, NY 10119  
(212) 279-5050

This the 11<sup>th</sup> day of July, 2005.

A handwritten signature in black ink, appearing to read "Jeffrey S. Abraham", written over a horizontal line.